

REPORT ON THE
BOARD OF BAR EXAMINERS
(OF THE ALABAMA STATE BAR)
Montgomery, Alabama



Department of
Examiners of Public Accounts

50 North Ripley Street, Room 3201
P.O. Box 302251
Montgomery, Alabama 36130-2251

Ronald L. Jones, Chief Examiner

State of Alabama
Department of
Examiners of Public Accounts

Telephone (334) 242-9200
FAX (334) 242-1775

Ronald L. Jones
Chief Examiner

Mailing Address:
P.O. Box 302251
Montgomery, AL 36130-2251

Location:
Gordon Persons Building
50 North Ripley Street, Room 3201
Montgomery, AL 36104-3833

May 24, 2006

Representative Howard Sanderford
Chairman, Sunset Committee
Alabama State House
Montgomery, AL 36130

Dear Mr. Sanderford:

This report was prepared to provide information for use by the Sunset Committee in conducting its review and evaluation of the operations of the **Board of Bar Examiners of the Alabama State Bar** in accordance with the *Code of Alabama 1975*, Section 41-20-9.

The report contains unaudited information obtained from the management, staff, and records of the **Board of Bar Examiners of the Alabama State Bar**, in addition to information obtained from other sources.

Please contact me if you have any questions concerning this report.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald L. Jones", written in a cursive style.

Ronald L. Jones
Chief Examiner

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PROFILE

PURPOSE/AUTHORITY

The Board of Examiners prepares the questions and model answers for the Alabama essay portion of the academic examination of applicants for admission to the bar and administers the examination. The Board of Bar Examiners has no employees and collects and disburses no funds. The Board of Bar Examiners was created by the Board of Commissioners of the Alabama State Bar under the authority of the *Code of Alabama 1975*, Section 34-3-2, which authorizes the Board of Commissioners to:

1. Provide for a board of examiners for admission to the State Bar, and
2. Prescribe rules and regulations for:
 - a. The selection of examiners, their number, tenure, compensation and authority,
 - b. The subjects of examination for candidates for admission
 - c. The conduct of examiners
 - d. The time and place of meetings of the examiners
 - e. The certification of persons

BOARD CHARACTERISTICS

Members	13
Term	Members serve at the pleasure of the Board of Commissioners of the Alabama State Bar, however no examiner may serve more than four (4) consecutive years without the prior approval of the Board of Bar Commissioners.
Selection	The Board of Bar Examiners is appointed by the Board of Commissioners of the Alabama State Bar as nominated by the Advisory Committee to the Board of Bar Examiners.
Qualifications	Members must be a lawyers in good standing with the Alabama State Bar.
Racial Representation	No statutory requirement 3 black members currently serve.
Geographical Representation	No statutory requirement
Consumer Representation	No statutory requirement

Other Representation

The Board of Bar Commissioners required to prescribe necessary rules and regulations to ensure that the membership of the Board of Examiners on Admission to the State Bar is inclusive and reflects the racial, gender, geographic, urban/rural, and economic diversity of the state.

Compensation

\$5,500 annually plus reimbursement for travel and other expenses incident to the discharge of their duties.

OPERATIONS**Administrator**

A chairman who cannot succeed him- or herself in office is designated by the Board of Bar Commissioners.

The Secretary of the Alabama State Bar serves as the ex officio Secretary of the Board of Bar Examiners.

Location

The Board of Bar Examiners is located within the Alabama State Bar, 415 Dexter Avenue, Montgomery, Alabama 36101.

Examinations

The semi-annual examination is a four-part examination on academic subjects comprised of:

- the Alabama Essay Exam consisting of six 30-minute essay questions on various aspects of civil litigation developed by the board.
- the Multi-State Essay Exam (MEE) consisting of six 30-minute essay questions covering agency and partnership, commercial paper, conflict of laws, corporations, decedent's estates, family law, federal civil procedure, sales, secured transactions, and trust and future interests;
- the Multi-State Performance Test (MPT) consisting of two 90-minute skills questions covering legal analysis, fact analysis, problem-solving, resolution of ethical dilemmas, organization and management of a lawyering task, and communication; and
- the Multi-State Bar Exam (MBE) consisting of 200 multiple-choice questions covering contract, torts, constitutional law, criminal law, evidence, and real property.

The MEE, MPT and MBE are developed by the National Conference of Bar Examiners (NCBE). The Board of Bar Examiners scores the Alabama Essay Exam, the MEE and the MPT. The MBE is scored by the NCBE.

The bar exam is held the last Monday, Tuesday and Wednesday in February and July. The Alabama State Bar contracts with teachers to proctor the exam.

Before admission to the bar, each applicant must pass the Multi-State Professional Responsibility Examination (MPRE), which covers ethics and professional responsibility. The MPRE can be taken any time within 12 months prior to taking the academic bar examination and the test result may be carried over for 20 months from the date the first academic bar examination is taken. The MPRE is given in March, August, and November of each year.

Examination Statistics

	2005	2004	2003	2002
Pass	497	491	581	486
	65%	63%	61%	54%
Fail	273	293	373	422
	35%	37%	36%	46%
Total	770	784	954	908

Employees

The Board of Bar Examiners has no employees. Employees of the Alabama State Bar perform administrative functions for the Board of Bar Examiners. The Admissions Secretary for the Alabama State Bar also serves the Board of Bar Examiners.

Legal Counsel

The General Counsel of the Alabama State Bar provides counsel to the Board of Bar Examiners

Internet Presence

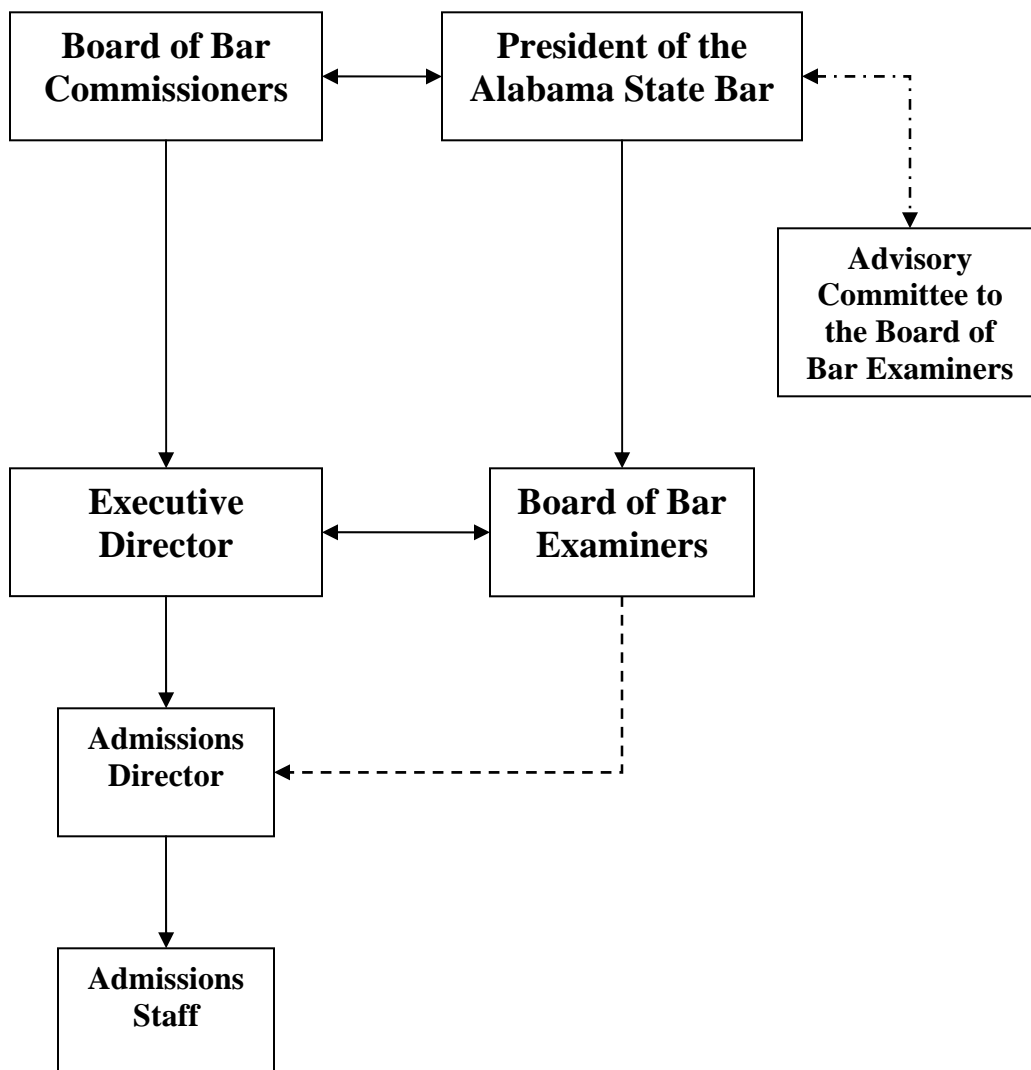
The Alabama State Bar's website is www.alabar.org. Information about the Board of Bar Examiners can be found under the heading "About the Bar". Information concerning admissions, including contact information and forms, is found under the heading "Admissions."

FINANCIAL INFORMATION

Source of Funds

The Board of Bar Examiners collects no fees or other receipts. The Alabama State Bar manages all financial matters for the Board.

ORGANIZATION



The Advisory Committee to the Board of Bar Examiners, appointed by the President of the Alabama State Bar, is a nominating committee who recommends lawyers for

appointment to the Board of Bar Examiners. The Board of Bar Examiners is appointed by the President of the Alabama State Bar. The Executive Director of the Alabama State Bar is also the Secretary of the Board of Bar Examiners. The Board of Bar Examiners works with the Director of Admissions on the semi-annual bar examination.

APPENDICES

Statutory Authority

§ 34-3-2. Board of Examiners.

The Board of Commissioners of the State Bar shall have the following powers and authority in addition to the powers and authority heretofore conferred upon or vested in the board:

The board shall provide for a Board of Examiners on Admission to the State Bar and may prescribe rules and regulations governing the selection of examiners, their number, tenure, compensation, and authority, the subjects upon which candidates for admission shall be examined, the conduct of examiners, the time and place of meetings, and the certification of persons found to be qualified. The board shall prescribe necessary rules and regulations to ensure that the membership of the Board of Examiners on Admission to the State Bar is inclusive and reflects the racial, gender, geographic, urban/rural, and economic diversity of the state.

(Acts 1949, No. 436, p. 632, § 1; Act 2003-140, p. 438, § 3.)

Current through End of 2005 Regular Session

Administrative Rules

The rules governing the Board of Bar Examiners are found in rule VI (A) and VI (B) of the Rules Governing Admission to the Alabama State Bar.

Rule VI(A).

Board of Bar Examiners

A. Creation of Board.

In accordance with the provisions of Act 436 of the Legislature of Alabama of 1949, approved August 23, 1949 (Section 34-3-2, Code of Alabama 1975), there is hereby created a Board of Examiners on admission to the Alabama State Bar, which Board shall hereafter be designated and known as the Board of Bar Examiners.

B. Composition of Board.

Unless a different number is set by the Board of Commissioners of the Alabama State Bar, the Board of Bar Examiners shall consist of thirteen (13) members who are residents of the State of Alabama and who are licensed attorneys of the Bar of this State. One examiner shall be designated by the Board of Commissioners as Chairman of the Board of Bar Examiners, but he or she shall have no examining responsibilities. In lieu of examining responsibilities, the Chairman shall supervise and direct the activities of the Board of Bar Examiners within such rules as are promulgated for the Board of Bar Examiners. The Chairman shall be compensated as are all other examiners. The Board of Bar Examiners shall hold office at the pleasure of the Board of Commissioners of the Alabama State Bar and may be removed from office with or without cause by a majority vote of those present at any meeting of the Board of Commissioners where a quorum is present. However, no examiner may serve more than four (4) consecutive years without the prior approval of the Board of Bar Commissioners.

C. Selection of Examiners.

The Advisory Committee to the Board of Bar Examiners, appointed by the President of the Alabama State Bar, shall serve as a nominating committee to nominate persons for membership on the Board of Bar Examiners. The nominations shall be made in consultation with the Chairman of the Board of Bar Examiners and the Secretary of the Alabama State Bar.

D. Vacancies and Removal From Office.

Any vacancy on the Board of Bar Examiners shall be filled by the Board of Commissioners of the Alabama State Bar. Interim appointments for no more than one exam may be made by the Chairman with the approval of the Executive Committee of the Board of Bar Commissioners.

E. Compensation of Members.

Each member of the Board of Bar Examiners shall receive such compensation as the Board of Commissioners shall from time to time establish. In addition to any such

amount, examiners shall be reimbursed for reasonable and necessary traveling and other expenses incident to the discharge of their duties. These expenses shall include, but not by way of limitation, amounts paid for books, postage, stationery, supplies, printing, and other like expenditures. The members of the Board shall submit statements for compensation and expenses on forms provided by the Secretary of the Alabama State Bar.

F. Organization and Authority of the Board.

The Board of Bar Examiners shall be chaired by the Chairman, who cannot succeed himself or herself in office. The Secretary of the Alabama State Bar shall serve as Secretary ex- officio.

A quorum for any meeting shall consist of seven (7) examiners. A vote of the majority of the Board of Bar Examiners present at any meeting shall constitute the action of the Board.

The Board of Bar Examiners shall examine applicants for admission to the Bar of Alabama as may be certified to the Board under these rules and shall perform such other duties as may be required of them by the Board of Commissioners of the Alabama State Bar.

G. Time and Place of Meetings.

The Board of Bar Examiners shall hold meetings for the purpose of examining applicants for admission to the Bar at least twice each year as provided in either Rule VI.L. or Rule VI(B).G., as appropriate. All members of the Board are not required to be in attendance throughout the examination; provided, however, that the Chairman shall arrange for the attendance of as many examiners as are necessary for the efficient administration of the examination. The Board of Bar Examiners shall hold other meetings as necessary to fulfill its function. The Board shall meet at the call of the Chairman or a majority of the Board of Bar Examiners.

(Adopted 5-08-2001.)

RULE VI(B).

BAR EXAMINATION

A. Bar Examination Subjects.

(1) Academic Bar Examination.

- (a) Alabama Essay Examination. The Board of Bar Examiners will administer essay examinations on subjects not covered by the Multistate Bar Examination or the Multistate Essay Examination. These subjects may include important topics of state law as well as federal taxation. At least twelve (12) months in advance of the first administration of the Alabama Essay Examination pursuant to this Rule VI(B), the Board of Bar Examiners shall prepare and distribute to all students in Alabama law schools (individually or through the schools) and to the deans of all

Alabama law schools a detailed outline of the topics that may be included on the Alabama Essay Examination. The Alabama Essay Examination shall not exceed three and one-half hours in length.

- (b) Multistate Essay Examination. This portion of the examination will cover such of the following subjects as the Board of Bar Examiners may determine: Agency and Partnership, Commercial Paper, Conflict of Laws, Corporations, Decedents' Estates, Family Law, Federal Civil Procedure, Sales, Secured Transactions, Trusts and Future Interests.
- (c) Multistate Bar Examination (sometimes referred to as "MBE"). This portion of the examination will cover the following subjects: Contracts, Torts, Real Property, Evidence, Criminal Law, and Constitutional Law.
- (d) Multistate Performance Test. This portion of the examination will consist of two 90-minute tests covering the following skills: problem solving, legal analysis and reasoning, factual analysis, communication, organization and management of a legal task, and recognizing and resolving ethical dilemmas.

(2) Legal Ethics. The Multistate Professional Responsibility Examination ("MPRE," see Rule VI(B).F.) prepared by the National Conference of Bar Examiners shall be used as the examination on Legal Ethics and Professional Responsibility.

An applicant must pass both the Academic Bar Examination and the Ethics Examination to be certified as a successful candidate.

B. Preparing, Conducting, and Grading Examinations.

(1) Preparing Examinations. The Board of Bar Examiners shall be responsible for preparing the Alabama Essay Examination, under guidelines established by the Board with the approval of the Board of Commissioners.

The Multistate Bar Examination, the Multistate Essay Examination, and the Multistate Performance Test will be prepared by the National Conference of Bar Examiners, which shall determine the contents of those examinations and that test.

(2) Conducting Examinations. The Board of Bar Examiners shall have the right, power, and authority to adopt rules consistent with the laws of the State of Alabama or the orders of the Supreme Court or the Board of Bar Commissioners governing the control, methods, and details of conducting examinations.

The Secretary of the Alabama State Bar, at the time an applicant is certified to the Board of Bar Examiners under these rules, shall issue to the applicant a card containing a personal identification number, the purpose and use of which shall be carefully explained to the applicant. The Secretary shall preserve a duplicate of that number in the Secretary's office. When taking the examination, the applicant may not sign his or her name to or upon any paper or document, or identify his or her examination answers other than by

said number, and is forbidden to disclose this number to any member of the Board or to any other person. If any applicant violates this requirement in any particular, The Board of Bar Examiners shall not consider the applicant's examination papers, and, if it is discovered that disclosure was made, the applicant shall be subject to disciplinary action for deceit and misrepresentation. This requirement shall again be called to the attention of the applicant by the Board of Bar Examiners before he or she is permitted to begin the examination.

The express purpose of the immediately preceding paragraph is to provide a method by which the Board of Bar Examiners, in passing upon the sufficiency of answers to questions propounded by it, shall be unacquainted with the identity of the person whose answers it is passing upon.

(3) Grading Examinations. Essay examination and performance-test questions will test the applicant's ability to reason logically, to analyze legal problems accurately, to demonstrate a knowledge of the fundamental principles of law, to be able to apply those principles, and to perform basic legal tasks. The grade of the paper shall be measured by the reasoning power shown as well as by the correctness or incorrectness of the answers. Answers to Multistate Essay Examination questions shall be analyzed and graded using the model answers provided by the National Conference of Bar Examiners and according to general principles of law. Answers to Alabama Essay Examination questions shall be analyzed and graded using the model answers prepared by the Board of Bar Examiners and according to Alabama or federal law, as appropriate. Essay-examination questions and performance-test questions will be scored by the Board of Bar Examiners. The Board of Bar Examiners shall regrade all the answers of any applicant whose initial combined score, computed as set forth in Rule VI(B).C.(1), is 125, 126, or 127.

Using the identification numbers assigned to identify the respective applicants, the Board of Bar Examiners shall certify final grades to the Secretary of the Alabama State Bar no later than April 15 following a February examination and September 15 following a July examination.

The Secretary shall make a permanent record in the Secretary's office of the grades attained by each examinee in each subject, and shall inform each examinee whether he or she has passed or failed the examination.

An examinee who fails the academic portion of the bar examination will be furnished the following information at the time the examinee is notified of the failure: his or her Multistate Bar Examination scaled score, the grade made on each essay-examination question and performance-test question, and his or her highest combined score.

Within sixty (60) days after the announcement of the results, a failing examinee shall be entitled to examine his or her own papers in the State Bar Headquarters for the purpose of ascertaining that grades were transcribed correctly, and upon payment of \$5.00 per section of any essay examination or performance test, the examinee will be entitled to

receive a copy of the question(s), and of his or her answer(s), and of the model answer(s) and to examine at the State Bar Headquarters the three top papers on that particular examination.

C. Results of Examinations.

(1) Basic Rule. Raw scores on the essay portions of the Academic Bar Examination shall be weighted so that the Alabama Essay Examination questions are worth 40% of the total written score, the Multistate Essay Examination questions worth 40%, and the Multistate Performance Test questions worth 20%. The total weighted raw written score shall be scaled to the MBE using the two methods for scaling bar examination scores approved by the National Conference of Bar Examiners, i.e., the equi-percentile method and the standard-deviation method. The applicant's scaled test score shall be expressed on the MBE range of scores (0-200) and shall be combined with the applicant's scaled MBE score. The scaled essay test score and the scaled MBE score shall contribute equally to the combined score, so that the overall contribution of the respective components of the Academic Bar Examination will be as follows: MBE: 50%; Alabama Essay Examination: 20%; Multistate Essay Examination: 20%; Multistate Performance Test: 10%. An applicant who achieves a combined score of 128.000 or above by either of the two scaling methods passes the academic portion of the bar examination. Scores which are not whole numbers shall be truncated to the next lowest whole number.

(2) Transfer of MBE Score. An applicant who has taken and passed a bar examination in another jurisdiction, who has been admitted to practice in that jurisdiction, and who made an MBE scaled score of 140 or above will be excused from taking the MBE. The transferred score will be valid for a period of twenty (20) months after taking the MBE on which the transferred score was received. The applicant's transferred MBE score will be combined with the applicant's written test score according to the basic rule.

The applicant shall have the option to take all sections of the bar examination; if the applicant chooses this option, the scores of all sections will be combined under the basic rule.

(3) Carryover of MBE Score. An applicant who has taken and failed the bar examination but who made an MBE scaled score of 140 or above will be excused from taking the MBE. The MBE scaled score will be carried over to any future examination for which the examinee is eligible, provided that that examination is administered within twenty (20) months after the earlier bar examination was administered, and the MBE scaled score will be combined with the applicant's written test score according to the basic rule.

The applicant shall have the option to take all sections of the bar examination; if the applicant chooses this option, the scores will be combined under the basic rule.

(4) Carryover of Written Test Score. An applicant who has taken and failed the bar examination, but who made a written test score that is equivalent to or greater than an MBE scaled score of 140, as determined in accordance with the basic rule, will be

excused from taking those sections of the bar examination that contribute to the written test score. The written test score will be carried over for any future bar examination for which the examinee is eligible, provided that the examination is administered within twenty (20) months after the earlier bar examination, and the written test score will be combined with the applicant's MBE score according to the basic rule.

The applicant shall have the option to take all sections of the bar examination; if the applicant chooses this option, the scores of all sections will be combined under the basic rule.

(5) Time of Election to Transfer or Carry Over Score. Elections regarding the transfer from another jurisdiction of an MBE score or the carryover of an MBE score or written test score from a previous Alabama examination must be made at the time an application to sit for an examination is filed.

D. Access to Information Regarding Alabama Essay Examination. At least twelve (12) months in advance of the first administration of the Alabama Essay Examination pursuant to this rule, the Board of Bar Examiners shall prepare and distribute to all students in Alabama law schools (individually or through the schools) and to the deans of all Alabama law schools an information booklet on the Alabama Essay Examination. This booklet shall include a description of the examination, including a statement of its purpose and the areas of law to be covered; the instructions that will accompany the examination when it is administered; and the subject matter or topic outline required by Rule VI(B).A.(1)(a). Following the first administration of the examination, the information booklet shall be revised to include the questions and corresponding model answers from the first examination. The Board of Bar Examiners shall thereafter update the information booklet at such times as it deems appropriate, and shall include in that booklet representative sample questions and corresponding model answers from prior examinations. The Board shall routinely distribute the booklet to all applicants, and shall make the booklet available upon request. A reasonable fee, to be determined by the Board of Bar Examiners with the concurrence of the Board of Bar Commissioners, may be charged to parties outside the routine distribution who request copies of the booklet.

E. Access to Information Regarding Other Examinations. The Board of Bar Examiners shall make available to applicants sample and informational materials that will acquaint applicants with the general content and format of the Multistate Bar Examination, the Multistate Essay Examination, and the Multistate Performance Test. This requirement may be met by routinely distributing to all applicants the information booklets on these examinations published by the National Conference of Bar Examiners, and by advising applicants of the availability, through the National Conference of Bar Examiners, of sample questions and analyses. A reasonable fee, to be determined by the Board of Bar Examiners with the concurrence of the Board of Bar Commissioners, may be charged to parties outside the routine distribution who request copies of the materials.

F. Multistate Professional Responsibility Examination. Before admission to the Bar, each applicant must have successfully passed the Multistate Professional Responsibility Examination ("MPRE"). To successfully complete the MPRE, the applicant must achieve a scaled score of at least 75, as that score is determined by the testing authority. Successful completion of the MPRE by an applicant at any time within the twelve-(12-)

month period before the taking of the Academic Bar Examination will be accepted and such successful completion may be carried over for a period of twenty (20) months from the time the first Academic Bar Examination is taken, if the applicant does not pass the Academic Bar Examination. If an applicant has passed the Academic Bar Examination, but has not successfully completed the MPRE, he or she shall have a period of twenty (20) months from the date of the Academic Bar Examination in which to successfully complete the MPRE.

Complete application materials for testing, as well as all other correspondence, inquiries, and requests concerning application materials and the administration and processing of the National Conference of Bar Examiners' Multistate Professional Responsibility Examination (MPRE), should be directed to:

National Conference of Bar Examiners
MPRE Application Department
P.O. Box 4001
Iowa City, Iowa 52243
(319) 337-1304

G. Time of Bar Examinations.

The examination will be given on Monday, Tuesday, and Wednesday of that week in February and July on which the MBE examination is administered. The Alabama Essay Examination will be on Monday, the Multistate Performance Test and the Multistate Essay Examination on Tuesday, and the Multistate Bar Examination on Wednesday. (Adopted 5-8-2001.)

Board Members

Board of Bar Examiners Of the Alabama State Bar

Below are the members of the Board of Bar Examiners as of February 17, 2006:

Board Members		Term Expires
Hon. Anne Stone Sumblin Chairperson	Kingston, AL	July 2008
Hon. Deborah Bittl Hembree	Mobile, AL	July 2009
Hon. Karen Lyn Mastin Laneaux	Montgomery, AL	July 2009
Hon. Houston Lanier Brown, II	Birmingham, AL	February 2008
Hon. Edgar C. Gentle	Birmingham, AL	February 2008
Hon. David Glenn Hymer	Birmingham, AL	February 2008
Hon. Daniel Johnson	Dothan, AL	February 2008
Hon. Warren C. Matthews	Montgomery, AL	February 2008
Hon. Lynn Reynolds	Birmingham, AL	February 2008
Hon. James A. Bradford	Birmingham, AL	February 2007
Hon. Malcolm Newman	Dothan, AL	February 2007
Hon. Thomas T. Ziemann, Jr.	Mobile, AL	February 2007
Hon. Barry A. Ragsdale	Birmingham, AL	July 2007
Hon. Jackson R. Sharman	Birmingham, AL	February 2006
Hon. L. Vastine Stabler, Jr.	Birmingham, AL	July 2006

Official

Keith Norman Executive Director	Alabama State Bar 415 Dexter Avenue Montgomery, AL 36101 (334) 269-1515 FAX: (334) 261-6310
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